



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 3724-02
6 December 2002

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 December 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 7 September 1972 at the age of 19. On 12 March 1973 you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded a \$100 forfeiture of pay and restriction for 19 days. On 21 June 1973 you were convicted by summary court-martial (SCM) of breaking restriction and were sentenced to confinement at hard labor for 30 days and a \$75 forfeiture of pay.

During the period from 16 August to 5 October 1973 you were in an unauthorized absence (UA) status for a total of 50 days, and were subsequently convicted by special court-martial (SPCM) of this period of UA. You were sentenced to restriction and hard labor for 45 days and a \$100 forfeiture of pay.

On 11 January 1974, after breaking restriction, you began another period of UA. On 4 February 1974, while in a UA status, you were convicted by civil authorities of possession of drugs and littering. You were sentenced to confinement for 12 months but were released from civil confinement on 3 June 1974. On 14 July 1975, while still in a UA status, you were convicted by civil

authorities of possession of cocaine and were sentenced to confinement for five years. During this period of UA, you were also declared a deserter.

On 29 January 1976 you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel you elected to have your case presented to an administrative discharge board (ADB). On 29 April 1976 an ADB recommended you be issued an other than honorable discharge. Subsequently, your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due to the civil convictions. On 25 May 1976 the discharge authority directed an other than honorable discharge by reason of misconduct, and on 7 June 1976 you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that you would like your discharge upgraded because your record shows only minor and isolated offenses, your ability to serve was impaired because you were having personal and financial problems, you had almost completed your term of service, and the length of time that has passed since you were discharged from the Marine Corps. Nevertheless, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct in both the military and civilian communities. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director